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*Washington, Wednesday, November 24, 1937*

## PRESIDENT OF THE UNITED STATES.

### EXECUTIVE ORDER

#### AMENDING PARAGRAPH 7, SUBDIVISION I, SCHEDULE A OF THE CIVIL SERVICE RULES

By virtue of and pursuant to the authority vested in me by paragraph Eighth, subdivision SECOND, section 2 of the Civil Service Act (22 Stat. 404), it is ordered that paragraph 7, Subdivision I, Schedule A of the civil service rules be, and it is hereby, amended to read as follows:

"7. Any person employed in a foreign country, or in the Virgin Islands, or in any island possession of the United States in the Pacific Ocean except the Hawaiian Islands, or United States citizens employed in a confidential capacity in the Philippine Islands, when in the opinion of the Civil Service Commission it is not practicable to treat the position involved as in the competitive classified service; but this paragraph shall not apply to any person employed in a foreign country contiguous to the United States in the service of the Immigration and Naturalization Service, Department of Labor."

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,  
November 20, 1937.

[No. 7746]

[F. R. Doc. 37-3405; Filed, November 22, 1937; 3:00 p. m.]

### EXECUTIVE ORDER

#### ESTABLISHING A DEFENSIVE SEA AREA OFF THE COAST OF SAN CLEMENTE ISLAND

##### California

By virtue of and pursuant to the authority vested in me by the provisions of section 44 of the Criminal Code, as amended (U. S. C., title 18, sec. 96), the area of water surrounding San Clemente Island, California, extending from low-water mark out for a distance of three hundred yards beyond low-water mark, is hereby established as a defensive sea area for purposes of national defense, subject to the uses reserved for the Department of Commerce in Executive Order No. 6897, dated November 7, 1934.

At no time shall vessels or other craft be navigated within the defensive sea area above defined except such as are authorized by the Secretary of the Navy.

Any person violating the provisions of this order shall be subject to the penalties provided by law.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,  
November 20, 1937.

[No. 7747]

[F. R. Doc. 37-3406; Filed, November 22, 1937; 3:00 p. m.]

### EXECUTIVE ORDER

#### WITHDRAWAL OF AREA FOR USE OF THE NAVY DEPARTMENT FOR PRESENT AND PROSPECTIVE NAVAL PURPOSES

##### Alaska

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, it is ordered that the following-described area in Alaska, be, and it is hereby, withdrawn from settlement, location, sale, or entry and, subject to valid existing rights, reserved for the use of the Navy Department for present and prospective naval purposes:

##### SEWARD MERIDIAN

Beginning at a point at latitude 57°45'30" north and longitude 152°32'0" west, thence:

S. to latitude 57°43'0" N., longitude 152°32'0" W.;  
SE. to latitude 57°42'0" N., longitude 152°30'0" W.;  
E. to latitude 57°42'0" N., longitude 152°26'0" W.;  
N. to latitude 57°44'0" N.;  
NW. to latitude 57°45'30" N., longitude 152°29'0" W.;  
W. to latitude 57°45'30" N., longitude 152°32'0" W., to the point of beginning.

This order shall continue in force until revoked by the President or by act of Congress.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE  
November 20, 1937

[No. 7748]

[F. R. Doc. 37-3407; Filed, November 22, 1937; 3:01 p. m.]

### EXECUTIVE ORDER

#### ENLARGING ST. MARKS MIGRATORY BIRD REFUGE

##### Florida

By virtue of and pursuant to the authority vested in me as President of the United States, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that the lands and waters, together with all accretions thereto, acquired or to be acquired by the United States within the following-described areas, comprising approximately 31,445 acres in Wakulla, Jefferson, and Taylor Counties, Florida, be, and they are hereby, reserved and set apart for the use of the Department of Agriculture, subject to valid existing rights, as an addition to the St. Marks Migratory Bird Refuge, established by Executive Order No. 5740 of October 31, 1931: *Provided*, That any private lands within the areas described shall be-





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come a part of the refuge upon the acquisition of title thereto or lease thereof by the United States:

### TALLAHASSEE MERIDIAN

- T. 4 S., R. 1 E.,  
sec. 11, lots 1 to 5, inclusive;  
secs. 14, 23, 24, 25, 26, and 36.
- T. 4 S., R. 2 E.,  
secs. 4, 5, 8, and 9;  
sec. 13, SW $\frac{1}{4}$ ;  
secs. 14, 15, 16, and 17;  
secs. 19 to 36, inclusive.
- T. 5 S., R. 2 E., all fractional.
- T. 4 S., R. 3 E.,  
sec. 13, SW $\frac{1}{4}$  and S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
sec. 14, S $\frac{1}{2}$ N $\frac{1}{2}$  and S $\frac{1}{2}$ ;  
sec. 15, SE $\frac{1}{4}$ NE $\frac{1}{4}$  and SE $\frac{1}{4}$ ;  
secs. 19 to 23, inclusive;  
sec. 24, all in Jefferson County;  
sec. 25, all in Jefferson County;  
secs. 26 to 30, inclusive;  
secs. 35 and 36.

- T. 5 S., R. 3 E., all fractional, including East Cut-Off Island.
- T. 4 S., R. 4 E.,  
sec. 18, that part of the SW $\frac{1}{4}$ SW $\frac{1}{4}$  lying west of the Aucilla River;  
sec. 19, that part of the NW $\frac{1}{4}$ NW $\frac{1}{4}$  lying west of the Aucilla River.

### HARTSFIELD SURVEY

Those parts of River Survey Lots 7 and 8 not already in the St. Marks Migratory Bird Refuge:

Bay Lot 3, W $\frac{1}{2}$ ;

Lot 12, W $\frac{1}{2}$ ;

Lot 13, W $\frac{1}{2}$ ;

Lots 117 to 120, inclusive;

Lot 121, all that part described as follows:

Beginning at the corner of Lots 116 and 117 in the northwest boundary of Lot 121, thence S. 17°09' E., 60.00 chains; N. 80°03' E., 60.76 chains; N. 72°51' E., 59.21 chains, to a point on Apalachee Bay; thence with the meanders of Apalachee Bay, northerly, 126.42 chains, to a point in the northwest boundary of Lot 121, thence with the northwest boundary of Lot 121, southwesterly, to the place of beginning.

### IN APALACHEE BAY

All of Sprague, Big Pass, Little Pass, John's, and Patty's Islands.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,  
November 22, 1937.

[No. 7749]

[F. R. Doc. 37-3411; Filed, November 23, 1937; 10:59 a. m.]

## TREASURY DEPARTMENT.

### Bureau of Internal Revenue.

[T. D. No. 4777]

### INCOME TAX

*Regulations 94 Amended by Renumbering Chapters XXXIV and XXXV as Chapters XXXV and XXXVI, and by Amending Articles 351-1 and 351-4: Article 351-4 of Regulations 86 Also Amended*

*To Collectors of Internal Revenue and Others Concerned:*

1. Regulations 94, approved November 12, 1936, are amended as follows:

(a) Chapters XXXIV and XXXV<sup>1</sup> are renumbered as Chapters XXXV and XXXVI.

(b) The following is substituted for the heading of Chapter XXXIV renumbered as Chapter XXXV.

### "SURTAX ON PERSONAL HOLDING COMPANIES

"(Under Title IA of the Revenue Act of 1936 as it existed prior to the amendment made by section 1 of the Revenue Act of 1937)"

(c) Immediately after the quotation of section 351 the following is inserted:

"Section 3 of the Revenue Act of 1937 enacted August 26, 1937 provides in part:

" \* \* \* Title IA of the Revenue Act of 1936, as it existed prior to such amendment, [section 1 of the Revenue Act of 1937] shall not apply to a foreign personal holding company (as defined in section 331 of the Revenue Act of 1936, added to such Act by section 201 of this Act) with respect to any taxable year ending after the date of the enactment of this Act."

[NOTE.—The provisions of this chapter apply to taxable years beginning after December 31, 1935, but do not apply to any taxable year beginning after December 31, 1936, or, in the case of a foreign personal holding company as defined in section 331 of the Revenue Act of 1936 (added to such Act by section 201 of the Revenue Act of 1937) to any taxable year ending after August 26, 1937.]

(d) The following sentence is added at the end of the second paragraph of article 351-1:

"A foreign corporation which is a foreign personal holding company (as defined in section 331 of the Revenue Act

<sup>1</sup> 1 F. R. 1947, 1951.



of 1936, added to such Act by section 201 of the Revenue Act of 1937) is not subject to the tax imposed by section 351 with respect to any taxable year ending after August 26, 1937 (see section 3 of the Revenue Act of 1937)."

2. Articles 351-4 of Regulations 86 and 94<sup>1</sup> are amended to provide:

"ART. 351-4. Amounts used or set aside to retire indebtedness incurred prior to January 1, 1934.

"(a) *Indebtedness*.—The term 'indebtedness' means an obligation, absolute and not contingent, to pay, on demand or within a given time, in cash or other medium, a fixed amount. The term 'indebtedness' does not include the obligation of a corporation on its capital stock.

"The indebtedness must have been incurred (or, if incurred by assumption, assumed) by the taxpayer prior to January 1, 1934. An indebtedness evidenced by bonds, notes or other obligations issued by a corporation is ordinarily incurred as of the date such obligations are issued and the amount of such indebtedness is the amount represented by the face value of the obligations. In the case of renewal or other changes in the form of an indebtedness, so long as the relationship of debtor and creditor continues between the taxpayer and his creditor, the giving of a new promise to pay by the taxpayer will not have the effect of changing the date the indebtedness was incurred.

"(b) *Amounts used or set aside*.—The deduction is allowable, in any taxable year, only for amounts used or set aside in that year. The use or setting aside must be to effect the extinguishment or discharge of indebtedness. Since, therefore, in the case of renewal and other changes in the form of an indebtedness, the relationship of debtor and creditor continues between the taxpayer and his creditor, the mere giving of a new promise to pay by the taxpayer will not result in an allowable deduction. If amounts are set aside in one year, no deduction is allowable for such amounts for a later year in which actually paid. As long as all other conditions are satisfied, the aggregate amount allowable as a deduction for any taxable year includes all amounts (from whatever source) used and, as well, all amounts (from whatever source) set aside, irrespective of whether in cash or other medium. Double deductions are not permitted.

"A resolution, specifying the particular indebtedness to be retired, the plan of retirement, and the specific assets to be used for that purpose, passed by the board of directors or corresponding authority during the taxable period or prior thereto, will be considered sufficient to meet the statutory requirement that the amounts must be 'set aside.' A certified copy of such resolution must accompany the return on Form 1120H.

"(c) *Reasonableness of the amounts with reference to the size and terms of the indebtedness*.—The reasonableness of the amounts used or set aside must be determined by reference to the size and terms of the particular indebtedness. Hence, all the facts and circumstances with respect to the nature, scope, conditions, amount, maturity, and other terms of the particular indebtedness must be shown in each case.

"Ordinarily an amount used to pay or retire an indebtedness, in whole or in part, at or prior to the maturity and in accordance with the terms thereof will be considered reasonable, and may be allowable as a deduction for the year in which so used, if no adjustment is required by reason of an amount set aside in a prior year for payment or retirement of the same indebtedness.

"All amounts set aside for the payment or retirement of an indebtedness in accordance with and pursuant to the terms of the obligation, for example, the annual contribution required by a mandatory sinking fund, will be considered as complying with the statutory requirement of reasonableness. Amounts set aside by a corporation voluntarily and without specific requirement by the terms of the indebtedness to which they apply will be considered reasonable if set aside pursuant to and in accordance with a definite and reasonable

plan for payment or retirement of the particular obligation at maturity. Thus, an amount of \$250,000 set aside in one year for the payment or retirement of an indebtedness of \$300,000 which still has several years to run would not, except under extraordinary circumstances, be considered reasonable. To be considered reasonable it is not necessary that the plan of retirement provide for a retroactive setting aside of amounts for years prior to that in which the plan is adopted. However, if a voluntary plan was adopted prior to 1934, no adjustment is allowable in respect of the amounts set aside in the years prior to 1934. A plan once adopted must be adhered to in all subsequent years unless circumstances other than mere tax liability later arise which justify a modification of the plan.

"(d) *General*.—The burden of proof will rest upon the taxpayer to sustain the deduction claimed. Therefore, the taxpayer must furnish the information required by the return, and such other information as the Commissioner may require in substantiation of the deduction claimed."

This Treasury Decision is issued under the authority contained in sections 62 of the Revenue Acts of 1934 and 1936.

[SEAL]

GUY T. HELVERING,  
Commissioner of Internal Revenue.

Approved, November 19, 1937.

ROSWELL MAGILL,

Acting Secretary of the Treasury.

[F. R. Doc. 37-3408; Filed, November 22, 1937; 3:20 p. m.]

#### WAR DEPARTMENT.

REVOCATION OF RULES AND REGULATIONS TO GOVERN THE OPERATION OF DRAWBRIDGES CROSSING THE ST. JOE RIVER, IDAHO

NOVEMBER 11, 1937.

To the Secretary of War.

On March 9, 1928, the Acting Secretary of War approved rules and regulations to govern the operation of the drawbridges crossing the Saint Joe River, Idaho. Investigation now discloses that this river is a navigable water of the State of Idaho, but it is not a navigable water of the United States since it has no navigable connection with navigable waters outside the State of Idaho. Accordingly, I recommend that the regulations approved March 9, 1928, be revoked.

J. L. SCHLEY,  
Major General,  
Chief of Engineers.

Recommendation approved November 12, 1937.

[SEAL]

HARRY H. WOODRING,  
Secretary of War.

E. T. CONLEY,  
Major General,  
The Adjutant General.

[F. R. Doc. 37-3410; Filed, November 23, 1937; 9:52 a. m.]

#### DEPARTMENT OF LABOR.

Immigration and Naturalization Service.

[Eighth Amendment to General Order No. 228]

DISCONTINUING BOUNDARY COTTAGE, MAINE, AS A PORT OF ENTRY FOR ALIENS

NOVEMBER 22, 1937.

The designation of Boundary Cottage, Maine, as a port for the entry of aliens into the United States, pursuant to the authority conferred by Section 23 of the Immigration Act of 1917 (Act of February 5, 1917, 39 Stat. 892; U. S. C., TI. 8, Sec. 102), and Executive Order No. 6166, dated June 10, 1933, is hereby discontinued.

<sup>1</sup> 1 F. R. 1949.



Paragraph 1, Subdivision A, Rule 3 of the Immigration Rules of January 1, 1930, as amended up to and including December 31, 1936, and thereafter by amendments to General Order No. 228, is amended by striking from the list of ports of entry in District No. 1, the following: Boundary Cottage, Maine.

[SEAL]

JAMES L. HOUGHTLING,

Commissioner of Immigration and Naturalization.

Approved:

FRANCES PERKINS,

Secretary

[F. R. Doc. 37-3412; Filed, November 23, 1937; 11:21 a. m.]

## RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 161]

## ALLOCATION OF FUNDS FOR LOANS

NOVEMBER 15, 1937.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	Amount
Georgia 8045 Sumter	\$72,000
Minnesota 8053W Waseca	10,000

JOHN M. CARMODY, Administrator.

[F. R. Doc. 37-3409; Filed, November 23, 1937; 9:51 a. m.]

## SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 23rd day of November, A. D. 1937.

[File No. 32-74]

IN THE MATTER OF WISCONSIN MICHIGAN POWER COMPANY  
NOTICE OF AND ORDER FOR HEARING

An application having been duly filed with this Commission, by Wisconsin Michigan Power Company, a subsidiary company of The North American Company, a registered

holding company, pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935, for exemption from the provisions of Section 6 (a) of said Act of the issue and sale of \$2,000,000 aggregate principal amount of its First Mortgage Bonds, 3¾% Series due 1961, to be dated July 15, 1936, to mature July 15, 1961, and to bear interest at a rate of 3¾% per annum, payable semi-annually, and the issuance of \$700,000 aggregate principal amount of its promissory notes, to mature serially at the rate of \$140,000 in each of the years 1938 to 1942, inclusive, and to bear interest at the rate of 3% per annum, payable semi-annually, it being stated by applicant that the issue and sale of said bonds and notes are solely for the purpose of financing applicant's business and will be expressly authorized by the Public Service Commission of Wisconsin, the State commission of the State in which applicant is organized and does business, and by the Michigan Public Utilities Commission, the State commission of the State in which applicant also does business;

It is ordered, That a hearing on such matter be held on December 9, 1937, at ten o'clock in the forenoon of that day at Room 1101, Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C.; and

Notice of such hearing is hereby given to said party and to any interested State, State commission, State securities commission, municipality, and any other political subdivision of a State, and to any representative of interested consumers or security holders, and any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before December 4, 1937.

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to preside at such hearing, and authorized to adjourn said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

Upon the completion of the taking of testimony in this matter, the officer conducting said hearing is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, Secretary.

[F. R. Doc. 37-3413; Filed, November 23, 1937; 12:46 p. m.]